



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
SPARTANBURG DIVISION

BILLY MCGILL,
Plaintiff,

vs.

CROWN CORK & SEAL CO., INC.,
Defendant.

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CIVIL ACTION NO. 7:08-2888-HFF-BHH

ORDER

This case was filed as a race discrimination action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Plaintiff's Motion for Partial Dismissal of Counts VI and VII [Doc. 40] be granted and Defendant's Motion to Dismiss [Doc. 35] be mooted. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 28, 2009, but neither party filed any objections to the Report. In the absence of such objections, the Court is not required to give any

explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court that Plaintiff's Motion for Partial Dismissal of Counts VI and VII [Doc. 40] is **GRANTED** and Defendant's Motion to Dismiss [Doc. 35] is deemed **MOOT**.

IT IS SO ORDERED.

Signed this 20th day of September, 2009, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE